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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,340	11/26/2003	Sung Gi Hwang	0465-1089P	8378
2292	7590	03/02/2006		EXAMINER
BIRCH STEWART KOLASCH & BIRCH				ESTREMSKY, GARY WAYNE
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FALLS CHURCH, VA 22040-0747			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/721,340	HWANG, SUNG GI
	Examiner	Art Unit
	Gary Estremsky	3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 December 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-4 and 6-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 14 and 19 is/are allowed.
- 6) Claim(s) 2,6-11,13 is/are rejected.
- 7) Claim(s) 3,4,12 and 15-18 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2, 8-11, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 711,812 to Armstrong.

Armstrong '812 teaches Applicant's claim limitations including : a "hook,..., hanging portion is formed at both sides" - c as it is shown in Fig 2, a "latch body" - including a,o, a "pair of holders" - e,e, a "pair of springs" - p,p where 'rear' is not further defined in the claim in such a way as to distinguish from the prior art, a "first reception part" - o, "having side wall portions" - n,n, a "pair of second reception parts" - d,d noting that 'adjacent' is broad limitation that does not distinguish from arrangement of the prior art, a "protrusion" - j,j. Although the reference does not disclose or suggest use of the latch on a "dryer", the latch is inherently capable of use on a dryer where no further particular structure of the claimed latch is specified by recitation of "dryer latch" where the claim has been particularly drawn to not include any dryer structure as part of the invention. It has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the

introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951). It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). The law of anticipation requires that a distinction be made between the invention described or taught and the invention claimed. It does not require that the reference "teach" what the subject patent teaches. Assuming that a reference is properly "prior art," it is only necessary that the claims under consideration "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. *Kalman v. Kimberly-Clark Corp.*, 218 USPQ 789. Claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974).

Since no word of a claim is ignored, claim language is necessarily interpreted on a case-by-case basis in accordance with its plain meaning and case law as guidance. In the present case, preamble recitation of "dryer" latch does not further define any structure of the latch defined in the body of the claim and since the dryer does not actually form part of the invention, it seems clear that such recitation is only related to what has been claimed as the invention as some, but unclaimed *intended use* of the invention. Since the prior art could inherently be used on a dryer if intended, it is not clear that any structure has been claimed that might limit the scope of the claimed invention so as to patentably distinguish from the prior art. The examiner is not suggesting (or disclaiming) that use of the prior art on a dryer is obvious under 35 USC

103, particularly since combination of the claimed latch with a dryer is not required as part of the invention.

As regards claim 9, a rounded cove portion on each holder 'e' is illustrated in Fig 3 at 'h'.

As regards claim 10, the hole for each spring reads on the "hollow portion" limitation.

As regards claim 11, part 'o' reads on "latch cap" and left/right (as shown in Fig 1) sides of part 'a' read on "reception parts".

As regards claim 13, parts n,n read on "guide protrusions" where they project from the bottom side of 'o' and at least, guide movement of parts e,e as they become engaged. Recitation of 'guide' does not clearly define particular structure that can be relied upon to patentably distinguish.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 711,812 to Armstrong in view of U.S. Pat. No. 2,629,156 to Kamens.

While Armstrong '812 illustrates a rounded contour on 'c', it would have been an obvious design choice or engineering expedient for one of ordinary skill in the art at the

time of the invention to provide a triangular profile as shown by Kamens '156 for example in order to improve guidance of c as it is being inserted from an off-center axis. One of ordinary skill in the art would have more than a reasonable expectation of success since the proposed modification would not otherwise affect function of the device. It's noted that the holders of Armstrong '812 are already inclined to correspond with their camming function.

Allowable Subject Matter

5. Claims 3, 4, 12, and 15-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 14 and 19 are allowed

Response to Arguments

7. Many arguments are directed to intended use of the claimed product (a latch) with unclaimed elements (a dryer). The scope of the claimed product is clear, at least so far as the dryer, its door, wet or dry clothes, hot air, etc., are not claimed as part of the invention whereby it is the examiner's position that the number of times that the unclaimed elements are mentioned in the claim is not material so long as the structure of the prior art anticipates all structure of the claimed product. Contrary to Applicant's arguments, no part of the latch is positively recited as being on or even near a dryer.

Consequently, any assembly with a dryer can only be interpreted as part of some intended use of the product claimed as the invention, but the invention has not been limited to that use by positive recitation of the combination.

Applicant's arguments regarding the dryer structure have been carefully reviewed and considered but no where do those arguments point out any particular structure that is claimed either implicitly or explicitly that can be relied upon to patentably distinguish from the prior art latch which is inherently capable of being mounted to a dryer and its door inasmuch as it has surfaces/structure which can be attached to some dryer.

The presented arguments aside, the term "dryer latch" of the preamble has been carefully considered but one of ordinary skill in the art would readily recognize that historically many various and structurally-disparate latches have been disclosed for use with dryers and no additional structure of the claimed latch can be inferred by the preamble recitation of dryer inasmuch as a dryer latch could be mechanical, electronic, VELCRO, or even possibly chemical in nature. Accordingly, the body of the claim is and should be relied upon for defining the scope of the claimed invention. While further recitation of how the claimed invention might be used with the unclaimed dryer does not render the scope of the claim indefinite, no structure is clearly defined by those recitations to distinguish from the well known structure of the prior art which is also inherently capable of recited function and arrangement with unclaimed dryers having appropriate structure. It has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for

completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951).

While Applicant asserts that the functional recitations of how the claimed latch might be used with a dryer define structure, Applicant's arguments do not clearly point out exactly what that structure is, so that the prior art might be further considered. While the body of the claim could have mentioned the dryer many more times, unless recitation of the dryer actually clearly and patentably implies some particular structure, it is not clear why some arbitrary number of recitations of unclaimed elements in a claim should impart patentability to a product that is otherwise anticipated by the prior art. Contrary to Applicant's arguments, the structure of the reference is 'adapted to' perform as recited for the reasons noted. Particularly, the reference discloses latching function that can inherently be used to latch a door of a dryer and has structure that can inherently be placed and provided on a dryer as recited. The claim does not require mounting to a dryer using screws, glue, welding, rivets or any other particular structure. Since no particular structure is defined by those recitations, they are considered broad. And have not distinguished from structure of the prior art. It has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

If any particular structure is explicitly or implicitly defined by recitation of an unclaimed dryer or its door, etc. that is not taught by the prior art, Applicant is respectfully requested to clearly point out in a Request for Reconsideration why such

structure is inherently required as part of the claimed invention, and is not included in the prior art.

Argument regarding location of the springs , ie. "A pair of springs provided in the rear of the holders, respectively" has been carefully considered but especially in view of Applicant's disclosure of this feature, those arguments are not persuasive. The present invention discloses a pair of holder elements with springs at one end for pushing the holders. The 'rear' referred to is with respect to each holder's frame of reference, not the latch's. And similarly, the reference discloses a pair of holder elements having portions that are outwards of the housing, and having portions that are generally encased by the housing. The springs are provided and attached to the inner or rearward portions that are encased, for pulling the holder elements. Arguments that the prior art springs pull instead of push the holder elements are accurate but do not have any real relevance to the claimed invention which does not distinguish in that respect. Contrary to Applicant's arguments, the term "rear" has not been ignored. It has been carefully considered but is broad and has not defined from the prior art where such interpretation is consistent with Applicant's use of the term and the prior art at large where the term is generally recognized as being relative to some frame of reference. In that respect, the claim does not further define the frame of reference in such a way as to clearly, patentably distinguish from the prior art holders which each have a 'rear' (central, inner portions most particularly including the portion to which the springs are attached).

As regards structure of the prior art, it is the examiner's position that parts n,n are on left/right sides of part o as shown in Fig 3 and that parts d,d are on top and bottom 'adjacent to' parts n,n inasmuch as they are close by or generally 'next to'. The term is broad and has been interpreted consistent with its plain meaning as accepted in the art essentially corresponding with 'near by' but not specifically defining any particular connectivity, distance, or further relationship. The term 'adjacent' does not require direct contact and is considered broad enough to read on the structure of the prior art.

As regards claim 11, it's noted that the scope of invention is very different from that set forth in claim 1 for example and accordingly, a fresh look at the prior art is required as part of its examination. Consequently, specific clarification is provided in the grounds of rejection that left/right parts of (a) reads on "first and second reception parts" and that part (o) which is shown to "cover" same as the device is shown in Fig 3 reads on "latch cap". Applicant's arguments that prior art does not have structure corresponding to the limitation are not persuasive.

Argument that parts n,n do not guide movement is not persuasive where it's clear from the arrangement shown that those elements are relied upon to guide the movement by at least, defining the extent of movement of the holders and potentially preventing gross displacement of the holders during movement by virtue of their inter-engagement. Otherwise, arguments may not accurately represent the actual grounds of rejection whereby further attention to statement of rejection is suggested.

As regards Applicant's arguments against rejection under 35 USC 103, implicit argument that the prior art relied upon is non-analogous due to "significant differences"

is not persuasive where the actual modification is not a physical combination of the devices of the two references so much as modification of the base reference to include equivalent structure for performing the same function where the secondary references is relied upon to show that all details of the claimed structure are in fact, well known to those of skill in the art for performing the same function as the structure of the base reference. Contrary to Applicant's arguments that modification to include equivalent structure for performing the same function would 'ruin the reference', it is examiner's position that cited ruination through 'hazard to user's fingers', etc., appears to be speculation not supported by facts found within evidence of record.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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Art Unit 3676